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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,614	06/06/2001	Atsushi Okawa	14666	5173
7590	12/28/2005		EXAMINER [REDACTED]	ALLEN, STEPHONE B
Paul J. Esatto, Jr. Scully Scott Murphy & Presser 400 Garden City Plaza Garden City, NY 11530			ART UNIT [REDACTED]	PAPER NUMBER 2878

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/857,614	OKAWA ET AL.	
	Examiner	Art Unit	
	Stephone B. Allen	2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 October 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 56 is/are withdrawn from consideration.
- 5) Claim(s) 2-28,33-38,44 and 47-55 is/are allowed.
- 6) Claim(s) 1,29-32,39-43,45 and 46 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 17 October 2005 was filed after the mailing date of the non-final on 14 July 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the IDS is being considered by the examiner.

Claim Rejections - 35 USC § 112

Claims 29-32, 39-43, 45 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 29, it is unclear how the optical probe scans "just an optical fiber. Further, how are the two sets of parallel plate structures incorporated into the two-dimensional scanner? Please clarify.

With respect to claim 30, how are the two sets of parallel plate structures incorporated into the two-dimensional scanner? Please clarify.

In claim 39, line 5; claim 40, line 5; claim 41, line 5; claim 42, line 5; claim 43, line 6; and claim 46, line 7, "the fixed part" lacks a proper antecedent basis.

With respect to claim 45, line 5, "the signal line" lacks a proper antecedent basis. Those claims not specifically mentioned are indefinite due to their dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 99/27865 to Koivisto et al.

Koivisto et al. disclose an optical scanning probe system comprising: a mounting component for detachably mounting at least one of a plurality of types of optical scanning probes having scanning components for scanning an examination site with the focal point of observation light emitted by a light source device; a recognition component for recognizing the type of optical scanning probe mounted to the mounting component; and a control device for controlling the scanning components in the optical scanning probe according to the type of the optical scanning probe recognized by the recognition component (see page 6, lines 26-28; page 9, lines 8-19 and page 10, line 25 – page 11, line 9).

Allowable Subject Matter

Claims 2-28, 33-38, 44 and 47-55 are allowed over the prior art.

Claim 56 remains withdrawn from further considered as directed a non-elected invention.

Response to Arguments

Applicant's arguments with respect to claims 1-55 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephone B. Allen whose telephone number is 571-272-2434. The examiner can normally be reached on M-F 08:30-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephone B Allen
Primary Examiner
Art Unit 2878

sba